

1905-036 Chancery Causes: John R. Legg vs. H. Barton &
Lee Co.

Anderson, Barton & Legg]

CA-Debt
T-Property

To the Hon.H.A.W.Skeen,Judge of the Circuit Court

For Lee County,Virginia:

Humbly complaining,your orator,J.R.Legg,would respectfully show unto the court,that during ~~the year 1897 and~~ a part of the year 189~~8~~⁹ he and one H.Barton were engaged in a general merchantile business in the town of Pennington Gap,Virginia,as partners under the style and firm name of Barton & Legg,and while engaged in said business the said firm contracted ^{debts} with wholesale merchants for goods wares and merchandise furnished said partnership,among which said creditors were Davis,Cox & CO.,Sanford,Chambers ^{and} & Albers, of Knoxville,Tenn.,and Wingo Elliot & Crump Shoe CO.,of Richmond Virginia;and before the above named creditors were paid off the various sums of money due them respectively,your orator sold his interest in said stock of goods to the said H.Barton,one of the conditions of ~~which~~ said sale being that the said H.Barton should pay all of the indebtedness of the said firm of Barton & Legg,as will be seen from examination of a copy of the written contract beteen your orator and the said H.Barton herwith filed marked Exhibit "A",and prayed to be read and treated as a part of this bill. Now your orator alleges that he complied faithfully with each and every part of the contract of sale with the said H.Barton,and expected the said Barton to faithfully carry ^{out} his part of the same.But you orator here alleges and charges that the said Barton refused to pay off ^{the} said indebtedness of said firm of Barton & Legg as he had agreed and promised to do,and the creditors above mentioned each sued and recovered judgments in the Circuit Court for the sums of money due them respectively by said Barton and Legg, copies of which said judgments are ^{here} with filed,marked judgments "1","2","3",and asked to be treated as apart of this bill, The judgments aforesaid have all been settled by your orator within the last few months,he having paid,the Wingo Elliot

& Crump Shoe CO. the Sum of four hundred and fifty five dollars and ninety one cents for its said judgment, taking an assignment of said judgment to himself, all of which will be seen from examination of said assignment, herewith filed marked Exhibit "B", and asked to be treated as a part hereof. The judgments of Davis, Cox & CO., and of Sanford Camberlain and Albers ~~were~~ paid off and settled by your orator by the payment of one hundred and seventy five dollars, which was paid by your orator to Pennington Bros. Attorneys for said two last named judgment creditors, as will be seen from an assignment from said attorneys, herewith filed marked "C", and prayed to be treated as a part hereof.

Your orator will now show your ^{honor} ~~orator~~ that the said H. Barton took the entire stock of goods of the firm of Barton & Legg, at the time your orator sold to him your orators interest therein, and all of said goods the said Barton appropriated to his own use. Shortly after said Barton took said goods into his possession, he purchased from the Pennington Gap Improve-ment Company a certain lot of land in the town of Pennington Gap, paying for said lot out of the proceeds of the sale of said goods, and taking a deed for said lot to his wife, F.E. Barton, a copy of which deed is herewith filed, marked "Deed No. I", and asked to be treated as a part of this bill; on said lot the said H. Barton had erected a nice two story dwelling house, paying for same with goods taken from the ~~store~~ stock of general merchandise turned over to him at ^{the} time of said sale to him by your orator, and with money which came from the sale of others of said goods.; all of which was done by said Barton for the purpose of hindering delaying and defrauding his creditors. On the _____ of _____ 18__ the said Barton and wife sold said house and lot to one J.W. Anderson, a Brother of the said wife of said H. Barton, as will be seen

from examination of ~~xx~~ a copy of the deed to said Anseron filed herewith, marked Deed No. "2", and which is asked to ~~xx~~ be treated as a part hereof. Now your orator here alleges that at the time the said J.W. Anderson purchased the said house and lot, he knew that the said H. Barton had built said house with the proceeds of the sale of said goods, and that it was not the property of the said F.E. Barton, and that the judgments aforesaid were then unpaid,; your orator is, therefore informed and here alleges that the said sale of said house and lot to the said J.W. Anderson was fraudulent in law as to the creditors of the said H. Barton, and therefore void, and that the deed from said H. Barton and wife to the said J.W. Anderson for said house and lot will be set aside by a court of equity, and that the aforesaid judgments will be declared to be liens on said house and lot.

Your orator further charges that the proceeds of the sale of the said house and lot has been used by the said H. Barton in various enterprises which he has conducted in the name of his said wife F.E. Barton, and that a part of said proceeds of said sale is now being used by said Barton in a furniture store, being conducted by the said H. Barton in the town of Pennington Gap, in the Name of F.E. Barton, or F.E. Barton & CO. another part of the money derived from said sale is invested in another ~~house~~ ^u and lot in the town of Pennington Gap, Va. in the name of F.E. Barton, being the house in which said Barton now lives. your orator alleges that said judgments are also liens on said stock of goods and the house in which said Barton now lives, and that he has the right to come in to a court of equity and have the liens of said judgments enforced, as your orator is now the owner of said judgments, and the said H. Barton has never paid off any part of any of them.

The prayer of your orator is that the said H. Barton, F.E. Barton and J.W. Anderson be made parties defendants to

this bill and be required to answer same, but they need not answer under oath, that being waived, ^{that} ~~that~~ ^{proer} process issue and that upon a final hearing the deed from the said H. Barton and F.E. Barton to the said J.W. Anserson for said house and lot be set aside and annulled, and that the said judgments be declared to be liens on said property, and that same be decreed to be sold to pay said judgments, or at least, for the amount paid by your orator for said judgments, and that the furniture store of F.E. Barton also be decreed to be liable for ~~the~~ amount of said judgments, as well as the house and lot in which the said Bartons now live, and that the same ^{subjected to} ~~be sold to~~ ^{amount of} pay the said judgments; and that all such other further and general relief be granted your or-ator as may be just and right, and he will ever pray, etc.

James H. Orr p.g.

J. R. Legg
vs } Bill in Chy.
H. Barton et al.

J. R. Legg.

vs Bill in Chy.

H. Barton et al.

1905-1st May Rules

Bill filed, Sp.

executed & D.N.

... 2nd May Rules

D.N. confirmed

& cause set for
hearing -

To the Hon.H.A.W.Skeen,judge of the Circuit Court for Lee County,

The separate demurrer and answer of H.Barton to a bill of complaint filed in this honorable court,against him and others by J.R.Legg.

And for demurrer to the said bill ,said respondent says that he is advised that said bill is not sufficient in law to call upon him to answer,and of this he prays judgment.

But if he should be misadvised in the cuase of his demurrer and other and further answer be necessary herein,reserving to himself the benefit of all just exceptions to the said bill for answer thereto,or to so much thereof as he is advised it is material for answer thereto,answering he says:

That it is true that he and said J.R.Legg,under the firm name of Barton & Legg were partners in a small retail mercantile business in the town of Pennington from some time in the Spring of 1891 to the 22nd,day of October,1891,on which day they dissolved their partnership,and your reppondent bought out the interest of said Legg in said business;that while said partnership existed it contracted various debts to divers persons in and about its partnership business;that Sanford,Camberlain & Albers,Davis,Cox & Co,and the Wingo Elliott & Crump Shoe Company were among its creditors for various sums of money;that before they as well as several other creditors of sais firm were paid their respective debts,your respondent bought out the interest of said Legg in said business,and took charge of its social effects,agreeing to pay therefor among other things all the indebtedness of the partnership;that before all of its creditors were fully paid by your respondent,the said Sanford,Chamberlain & Albers,and Davis,Cox & Co. and the Wingo, Elliott & Crump Shoe Co. each sued and took judgment for their respective debts in the court and at the times as shown by exhibits "1","2",α "3" of said plaintiff's bill,against the old firm of Barton & Legg;and that said respondent paid no part of the same,if they have been paid at all as claimed by the plaintiff. But this was not on account of any wanton failure or refusal or disposition

on his part, not to pay said debts, but on the sole account of his financial inability to do so. At the time he purchased said interest in said stock of goods, no invoice was made of the same, but yet, there was not more than \$600.00 worth of the same, and as well as now remembered there was near about \$2,000.00 debts to pay out of said goods, and which said firm owed. Your respondent conducted and run this business about a year after he bought out said Legg, and during that time bought and replenished his stock as best as he could, all the while paying on said firm's indebtedness, until he paid something over \$1400.00 or \$1500.00, as he now remembers; and in order to do so, and pay what he did pay, he not only applied every dollar of the proceeds of the sale of said goods to said firm's indebtedness, but he sold two houses and lots in said town for \$ and turned over the money for them on ~~xxxx~~ said debts.

Your respondent made every honest effort he could to pay all of said debts, and believes he would have finally done so, but for the financial crises and distresses that came and swept over the country about that time. Creditors become restless and would not indulge your respondent; they demanded immediate payment of their money, and thereupon, your respondent paid on said firm's indebtedness, all he could and all he had, and was compelled to quit business in consequence. But he did not quit paying until he had paid out all he had, and also some of his wife's own money.

Your respondent denies that he shortly after, ~~xxxxxxxxxxxx~~ ~~xxxx~~ he bought out said Legg's interest in said stock of goods, or at any other time bought from the Pennington's Gap Improvement Company a lot of land in the town of Pennington Gap, or elsewhere, and paid for the same out of said stock of goods or the proceeds of the sale of said goods, and had the same conveyed to his said wife, F.E. Barton; he also denies that out of said stock of goods or the proceeds of the sale of said goods, he built any kind of house, much less a nice two-story dwelling house on any lot of land which he had bought from the Pennington's Gap Improvement Co.

He also denys that he and his said wife sold to her brother, J.W. Anderson, any house and lot in Pennington Gap, or elsewhere, which he had bought from the Pennington's Gap Improvement Company. He further denys that his wife now has any money invested in a dwelling house and furniture store in Pennington which came out of ~~any~~^{the} ~~no~~ sale of any house and lot which your respondent had bought from said Improvement Company ~~and~~ or any other person,

Your respondent here relies upon the statute of limitations and the equitable doctrine of laches as a defense to said plaintiff's bill and claim, to the same extent as if the same were fully and formally pleaded here.

Now your respondent having fully answered said bill, in so far as he is advised it is material for him to answer, and specially denying all charges of fraud, and all allegations in said bill not heretofore denied or admitted to be true, he prays to be hence dismissed with his reasonable costs in this behalf expended. And he will ever pray, etc.

Pennington Bros. P.D.

To the Hon.H.A.W.Skeen,judge of the Circuit court for Lee County:

The separate demurrer and answer of Fances EMBarton,(called in said plaintiff's bill,F.E.Barton) to a bill in chancery exhibited against her and others in this counrt by J.R.Legg.

And for demurrer to said bill,said repsondent says that she is advised that said bill is not sufficient in law to call upon her for an answer therein,and of this she ~~prays~~ ^{prays} judgment.

But if she should be misadvised as to the cause of her demurrer, and other and further answer ~~to~~ be required of her,reserving to herself the benefit of all just exception,to said bill,for answer thereto or to so much thereof as she is advised she sould answer, answering she says:

That she supposes it is true that her said husband,and the said plaintiff were at one time partners in a small mercantile business in the town of Pennington Gap,in the year ~~190~~ 1891;that she is a ~~xx~~ sister of the said J.W.anderson;and that her said husband some time in the Fall of 1891 bought from said Legg,his interest in said business,but on what terms,conditions and prices she does not know, and in so far as her interests are concerned in this suit,she requires strict proof.

And for further answer to said bill,she most emphaticly denys that her said husband,bought from the Pennington's Gap Improvement Company any lot or lots of land in the town of Pennington Gap or elsewhere,and paid for the same out of the stock of goods,or the proceeds of the sale of the stock of goods which he got from the firm of Barton & Legg; she also denys that her said husband after he had bought said lot,out of the said goods or the proceods of sale of said goods built a house of any kind thereon,much less a nice two-story dwelling house;and she further denys that she and her said husband sold to her brother,J.W.Anderson,any house and lot which ~~xxx~~ ^{her} said husband had bought from said Improvement Company, and had the same conveyed to her,much less the one mentioned in said plaintiff's bill.

Your respondent further denys that she ~~XXXXXXXXXXXXXXXXXXXX~~ has
now
any money or other thing of value, invested in a dwelling
house in Pennington Gap, or a furniture store which came out
of the sale or proceeds of sale of any lot of land, and house
thereon that was bought by her said husband from the said Im-
and subsequently sold to her said brother.
provement Company, and paid for out his effects in any way, ~~XXXX~~
~~XX~~
~~XX~~
~~XX~~
~~XXXXXXXXXXXX~~

Your respondent here relies upon the equitable doctrine of
laches and the statutes of limitations as a defense to said
bill and said plaintiff's claim in said bill, to the same ex-
tent and as fully as if the same were fully and formally
pleaded.

Your respondent now having fully answered, and here spe-
cificly denying and all imputations of fraud upon her part,
and all allegations of said bill not heretofore specially admit-
ed as either true or false, she prays that she be hence dismissed
with her reasonable costs in this behalf expended. And she
will ever pray, etc.

Pennington Bros. P.D.

To The Hon.H.A.W.Skeen,judge of the Circuit court for Lee County:

The separate demurrer and answer of J.W.Anderson to a bill of complaint exhibited against him and others in the Circuit court for Lee County, by J. R. Legg.

And for demurrer to said bill said respondent says that he is advised that said bill is not sufficient in law to call upon him for an answer,and of this he prays judgment:

But if your respondent should be mistaken in the cause of his demurrer,and other and further answer should be necessary to said bill,reserving to himself the benefit of all just exceptions to the said bill,for answer thereto,or to so much thereof as he is advised it is material for him to answer,answering he says:

That it is true that he is a brother of the said F.E.Barton,and this is the only true allegation or averment of said bill in so far as his own personal knowledge goes.

Your respondent denys that on the day of 18 or on any other day,H.Barton and his wife or either of them sold and conveyed to him any lot of land in Pennington Gap,which said Barton had bought from the Pennington's Gap Improvement Company; he further denys he had any knowledge or information of said H. Barton every buying any lot of land from said company and paying for the same out of a stock of goods which he had bought from said plaintiff,or the proceeds of such stock of goods;he further denys that he knew that Sanford,Chamberlain & Albers,Davis Cox & Co. and Wingo Elliott & Crump Shoe Co.or either of them had any judgment or demand against the said Barton & Legg or either of them that had not been satisfied,until he learned the same from said plaintiff's bill. Your respondent denys ~~any~~ each and every allegation of said bill,that in way connects him with any fraudulent transaction between himself and his sister and brother-in-law,F.E.Barton and H. Barton. And now having fully answered said bill,he prays to be hence dismissed,etc.

Pennington Bros. P. D.

H. Barton & Co

Answers
as to {

J. R. Legg -

Filed by leave of the Court
May 14, 1905 -

J. H. Ewing
Clerk

John R. Legg
against

Plaintiffs

L. Barton, H. E. Barton &
J. W. Anderson.

Defendants

In Chancery.

Upon the calling of this cause it was
announced that the parties had by agreement
settled the matters in ^{the} dispute between
them; and pursuant to said agreement,
it is adjudged, ordered and decreed
that this cause be dismissed and that
the defendants recover against the
plaintiffs their costs in this behalf expended
except an attorneys fee, and the cause
is stricken from the docket.

John R Legg.
vs { Decree Final.
D. Barton et al.

Entered in C.O.B.
8, page, 72.

Enter this decree,
H. A. W. Stone
Sept 20th 1905.

J. R. Legg, Complainant,

Vs.

In Chancery.

H. Barton et als, Defts.

On the calling of this cause, leave was granted the defendants ~~ants~~ to file in open court their several separate demurres and answers~~to~~, to which demurrers and answers~~to~~ the said plaintiff joined and took issue, and this cause is continued.

J. R. Ling 2

W. S. & W. S.

St. Bart's Hall
Entered in C. B.
No-8-2-32-

Enter this
May 17th 1905
St. C. W. S. S.

Articles of agreement made and
entered into this the 22nd day of Oct.,
1891 between Harvey Barton of the
first part and John R. Legg of the
second part:

Witnesseth that the said Legg
has this day sold and delivered unto
the said Barton his entire one
half interest in the stock of
Goods they now have and a like
interest in Lot No. 4, in block
No. 3 in the town of Punnington Gap,
Virginia, for and in consideration
that said Barton pay all the
firm debts and demands of the
firm of Barton & Legg, that said
Barton pay all deferred payments
~~or that will become due~~ ^{also} on said lot, and those deferred
payments due and to become due
on Lot No. 12 in block No. 2 of
said town, and the further sum
of One hundred and twenty dollars
out of the accounts due to said
firm, the balance of which is to
be that of said Barton: Now the
said Legg binds himself to convey
his said half interest in said Lot
No. 4 in Block No. 3 when ever
said Barton shall ^{have} fully paid
all of said sums of money

Witness the following signatures
& seals. This day & year first above
written.

H Barton
J R Legg

seal
seal

Barton & Legg to contract

A.

9/23/1904

3-11-0

John W. W. W.

W. W. W. W.

W. W. W. W.

Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, March 10, 1893.

Wingo Elliott & Crump Shoe Co.

Pliffs.)

vs.)

In Assumpsit.)

Harvey Barton & J. R. Legg

Defts.)

This day came the Plaintiff by its Attorney, and it appearing to the Court that the Defendants have been legally summoned, and served with copies of account, and they failing to appear after being solemnly called: It is considered by the Court that the Plaintiff recover against the Defendants the sum of Four hundred and fifty five and 91/100 Dollars, the amount of the account in the declaration mentioned, and legal interest thereon from the 2nd day of February 1892, till paid and the costs.

C. \$9.25

S. \$2.00

A. \$2.50

Co. C.O.25

Total \$14.00

Virginia, Lee County, to-wit:

I, H. C. T. Ewing, Clerk of the County and State afore-said, do certify that the foregoing is a true and complete copy of a judgment in Common Law Order-book No. 5, page 250, as appears of record in my office.

Given under my hand this 24th day of August, 1904.

H. C. T. Ewing Clerk.

For the sum of four hundred and fifty five dollars and ninety one cents, and the further sum of fourteen dollars, the principal and cost of the above judgment, we hereby assign said judgment to J. R. Legg, without reserve or otherwise at law or in Equity.

Given under our hands, this 29th day of August, 1904.

by Geo R Wilson Treas

J. R. Legg
 Trust Assignment
 Kings Elliott & Grunp
 Coal Co.

B & 3

38.32
 22.00
 28.75
 6.00
 14.00
 14.00

Given under our hand and seal of the County of
 Adams, this 1st day of March, 1893.
 J. R. Legg
 Trust Assignment
 Kings Elliott & Grunp
 Coal Co.

IN CONSIDERATION of the sum of \$175.00 in hand paid, we hereby assign to JOHN R. LEGG without recourse the following named judgments, to-wit:

DAVIS, COX & CO. v. BARTON & LEGG for \$216.00, with interest thereon from July 8, 1891, until paid, and \$14.04 costs, subject to the following credits: \$50.00 paid July 13, 1891 and \$100.00 paid Dec. 29, 1891.

And SANFORD, CHAMBERLAIN & ALBERS v. BARTON & LEGG for \$96.58 with legal interest thereon from the 7th day of April, 1891 and the costs, \$12.18.

And also agree to dismiss the chancery suit of P. M. BALL for the benefit of DAVIS, COX & CO. and SANFORD, CHAMBERLAIN & ALBERS CO. v. JOHN R. LEGG, recently instituted in the Circuit Court for Lee County, paying ^{our} own costs in said suit.

This May 16, 1904.

Livingston Bros

ATTORNEYS for
DAVIS, COX & CO. and
SANFORD, CHAMBERLAIN &
ALBERS COMPANY.

John R Legg
From Assignment
Davis Cox & Co, et al

S

The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon J. C. Anderson, Wm. J. Anderson, R. G. Linsay, and Dr. F. G. Nyagah

undersigned notary Public
to appear before the Judge of our Court of the of, at
the Law Office of James M. Orr, the court-house thereof, on the 8th day of September 1905, to testify and the truth to
say in behalf of the The plaintiff, in a certain matter of controversy in our said Circuit Court
the said Judge depending and undetermined between the Commonwealth of Virginia, Plaintiff, and
H. Barton et al.

Defendant
And this they shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness A. O. Brown N. P., Clerk of our said court, at the court-house,
the 7th day of September 1905, and in the 11th year of the Commonwealth.

A. O. Brown,

Commonwealth
John R. Legg

vs.

SUBPOENA

FOR

WITNESS.

H. Barton, et al.,

Court,

the *8th* day of *Sept.*
1905
~~180~~

Executed Sept 7th 1905-
W.A. Owens vs.
For P.M. Ball S.P.C.

F. C. A.
H. J. A.
R. G. L.
H. J. Hoggal.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*H. Barton, J. E. Barton
and John H. Anderson*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *1st* Monday in *May*, 190*5*, to answer a bill in chancery exhibited against *them*

in our said Court by John B. Legg-

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *11th*
day of *April*, 190*5*, and *29th* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

John B. Legg

VS

SUBPOENA
IN
CHANCERY.

H. Barton et al

Oral Work p. q

To

1st May

Rules.

Lee Circuit
1905

Court.

Executed by delivering an
attested copy of the within
summons to each of the
Defendants, this April 15 -
1905 - M. D. Deming, D. O.,
for Pm. Ball.
S. Lee